

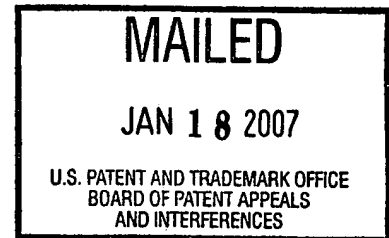
The opinion in support of the decision being entered today
was **not** written for publication and
is **not** binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHRISTOPHER JOEL NACK

Appeal No. 2006-2628
Application No. 09/261,030
Technology Center 3600



ON BRIEF

Before OWENS, NAPPI and FETTING, **Administrative Patent Judges.**

NAPPI, **Administrative Patent Judge.**

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 of the final
rejection of claims 2, 5, 6, 8 through 11, 15, 16, 18 through 20, 23 and 24.
For the reasons stated *infra* we will not sustain the Examiner's rejection of
these claims.

THE INVENTION

The invention relates to a method for efficiently handling override conditions in a Point Of Sales (POS) devices. The method involves a central controller which is networked with the POS devices and communicates with a wireless device that monitors and responds to override conditions. See page 2 of Appellant's specification. Claim 5 is representative of the invention and is reproduced below:

5. A method for efficiently handling an override condition in a point of sale device (POS), the method comprising:
- (a) receiving override details at the POS device;
 - (b) sending the override details from the POS device to a wireless management device; and
 - (c) displaying the override details on the wireless management device, further including :
 - entering an override signal on the wireless management device;
 - sending the override signal to a central controller device from the wireless management device; and
 - relaying the override signal from the central controller device to the POS device.

THE REFERENCES

The references relied upon by the Examiner are:

Swinamer	US 3,863,245	Jan. 28, 1975
Walker	US 6,138,105	Oct. 24, 2000

THE REJECTION AT ISSUE

Claims 2, 5, 6, 8 through 11, 15, 16, 18 through 20, 23 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Swinamer in

view of Walker. Throughout the opinion we make reference to the Brief and the Answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the Examiner and the evidence of obviousness relied upon by the Examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, Appellant's arguments set forth in the Briefs along with the Examiner's rationale in support of the rejections and arguments in rebuttal set forth in the Examiner's Answer.

With full consideration being given to the subject matter on appeal, the Examiner's rejection and the arguments of Appellant and the Examiner, for the reasons stated *infra* we will not sustain the examiner's rejection of claims 2, 5, 6, 8 through 11, 15, 16, 18 through 20, 23 and 24.

Appellant argues, on pages 8 and 9 of the Brief, that the claimed invention is directed to a method and system for effectively handling an override condition in a point of sale device (POS) by using a mobile/wireless manager device which provides an override signal to a central controller. Appellant argues on page 10 of the Brief:

In contrast to the recited invention, there is nothing in Swimaner [sic, Swinamer], even when taken with Walker, that teaches or suggests the signaling of data from a mobile manager system to a central controller to provide an override signal in response to an override condition occurring in a POS. Swinamer discloses connection of each clerk and bagger at each counter in a grocery store to each other and to a manager via an intercom system. ... The manager is not

taught or suggested as being tied electronically to a point of sale (POS) device/cash register. Thus, the verbal communication of the manager to the clerk only affects the cash register if the clerk performs some action.

Further, Appellant argues that while Walker does teach a plurality of POS terminals in a network with a server, combining Walker with Swinamer does not teach the claimed invention, as in Walker the PDA is used as an output device and not as an input device for signaling a central controller.

Thus, on page 11 of the Brief, Appellant concludes:

[W]hether the clerk and manager in the Swinamer system communicate via phones or PDAs, Appellant fails to see any teaching or suggestion of the recited use of a mobile manager system to remotely monitor and respond to the plurality of POS systems, the POS system identifying an override condition during a customer transaction and sending data for the override condition to the central controller system, the central controller system transferring the data for the override condition to the mobile manager system, and the mobile manager system signaling release of the override condition to the central controller system.

The examiner responds on pages 3 and 4 of the Answer. The examiner states on page 4 of the Answer:

[B]y merely improving the communication system of Swinamer et al. with the network system of Walker et al. shown in figure 1, this limitation is met. Column 4, lines 52-62, of Walker et al. specifically states that the input and output devices for server 102 can be a PDA. The examiner believes that server 102, which is linked by network 104 to POS terminals 106, 108 and 110, meets the metes and bounds of the claimed element, "central controller". The disclosure of the PDA of Walker et al. as an input/output device meets the metes and bounds of the claimed element, "mobile manager system". "signaling [sic,[s]ignaling] of data" between the two above elements is inherent.

We disagree with the examiner's rationale. Claim 5 recites, sending override details from the POS device to a wireless management device, displaying details on the wireless device, entering an override signal on the device, and sending a signal from the override device to a central controller. Independent claim 23 contains similar limitations, but does not recite receiving and displaying data but rather recites monitoring data. Independent claim 15 also contains similar limitations but does not recite receiving and displaying data but rather recites monitoring data and recites a mobile manager instead of a wireless device. Thus, all of the independent claims recite a device, mobile or wireless, which performs two functions: a) receive and display data (claim 5), or monitor data (claims 15 and 23) from the POS terminals; and b) responds to a central controller. We do not find that the references teach such a device.

Swinamer teaches a wired intercom system, between a master station and substations at cashier and bagger locations. The system does not make use of a mobile manager or wireless device which communicates with POS devices and the master station.

Walker teaches a system where there are a plurality of POS terminals which are networked together and connected to a server. See Figure 1. The server has an input and output device, see figure 2. Walker teaches that the system may make use of a Personal Digital Assistant (PDA) which is in communication with the server. However, as Appellant points out, Walker teaches that the PDA is used as an output device and discloses no manner of using the PDA as the input device. See column 4, lines 57 through 61, which identifies the input device as a keyboard and lists a plurality of

devices as output devices including liquid crystal display price tags, kiosks, shopping cart monitors and hand held PDA's¹. Thus, we do not find that Walker teaches a mobile monitor or wireless device, which can respond, i.e. provide input, to a server or central controller.

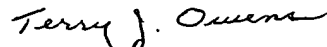
Thus, we do not find that the combination of Swinamer and Walker teach all of the limitations of independent claims 5, 15 and 23. Accordingly, we will not sustain the Examiner's rejection of claims 2, 5, 6, 8 through 11, 15, 16, 18 through 20, 23 and 24 under 35 U.S.C. § 103.

¹ While Walker does not disclose that these devices are communicated to wirelessly, it would have been apparent to one skilled in the art that such communication is possible and desirable especially in the scenario of a shopping cart display.


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For the forgoing reasons, we will not sustain the Examiner's rejection,
under 35 U.S.C. § 103. The decision of the Examiner is reversed.

REVERSED


TERRY J. OWENS
Administrative Patent Judge


ROBERT E. NAPPI
Administrative Patent Judge


ANTON W. FETTING
Administrative Patent Judge

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